U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 05 July 2006

CASE NO.: 2006-LDA-19

OWCP NO.: 02-141901

IN THE MATTER OF

OSCAR A. AGUILAR,
Claimant

v.

URS CORPORATION,
Employer

and

AIG WORLDSOURCE,
Carrier

APPEARANCES:

Gary B. Pitts, Esq.,
On behalf of Claimant

Michael W. Thomas, Esq.
On behalf of Employer

Before: Clement J. Kennington
Administrative Law Judge

DECISION AND ORDER DENYING BENEFITS

This is a claim for benefits under the Longshore and Harbor Workers' Compensation Act (the Act), 33 U.S.C. § 901, *et seq*., (2000) as extended by the

Defense Base Act, 42 U.S.C. § 1651(a)(2) brought by Oscar A. Aguilar (Claimant) against URS Corporation (Employer) and AIG Worldsource (Carrier). The issues raised by the parties could not be resolved administratively, and the matter was referred to the Office of Administrative Law Judges for a formal hearing. The hearing was held on January 24, 2006 in Houston, Texas.

At the hearing all parties were afforded the opportunity to adduce testimony, offer documentary evidence, and submit post-hearing briefs in support of their positions. Claimant testified and introduced 12 exhibits which were admitted, including Claimant's medical records, employment agreements between Employer and Claimant, various DOL documents (LS-203, 207, 18), Claimant's W-2s, Employer/Carriers response to discovery, and Claimant's request for wage information.[1] Employer introduced 15 exhibits including DOL forms (LS-18, 201, 202, 203, 207), Employer/Carrier discovery requests, Claimant's response to discovery, Claimant's statement of May 25, 2005, depositions and medical evaluations of Claimant by Drs. David G. Vanderweide and Mark Maffet, Claimant's deposition, and wage information of Claimant.

Post-hearing briefs were filed by the parties. Based upon the stipulations of the parties, the evidence introduced my observation of the witness demeanor and the arguments presented, I make the following Findings of Fact, Conclusions of Law, and Order:

I. STIPULATIONS

At the commencement of the hearing the parties stipulated and I find:

1. Claimant was injured on February 20, 2005, in a zone of special danger.

2. At the time of injury Claimant was employed by Employer.

3. Claimant advised Employer of the injury on February 20, 2005.

4. Employer filed a notice of controversion on May 20, 2005.

[1] References to the transcript and exhibits are as follows: trial transcript- Tr.__; Claimant's exhibits- CX-, p.__; Employer exhibits- EX-__, p.__; Administrative Law Judge exhibits- ALJX-__; p.___.

5. There was no informal conference.

6. Employer paid medical benefits for injury to Claimant's right knee.

II. ISSUES

The following unresolved issues were presented by the parties:

1. Nature and extent of injury: Whether Claimant is entitled to temporary total disability benefits from July 26, 2005 and continuing.

2. Average weekly wage.

3. Interest and penalties.

4. Attorney fees and expenses.

III. STATEMENT OF THE CASE

A. Claimant's Testimony and Medical Records while in Iraq

Claimant is a 36 year old male born on January 15, 1968. Claimant began working for Eagle Support as a warehouse fork lift operator at Camp Speicher in Tikrit, Iraq, in December, 2004. (EX-12, pp. 8, 9). When Employer took over warehouse operations in January, 2005, Claimant signed an employment agreement with Employer and continued working as a fork lift operator. Pursuant to the employment agreement which Claimant signed on January 13, 2005 and was later amended on January 29, 2005, Claimant received a base wage of $14.90 per hour, plus additional compensation consisting of a foreign service bonus, work area differential, hazard pay, sick leave, holiday pay, and travel expenses. (CX-2; EX-7, pp. 3, 4). Claimant worked exclusively at Camp Speicher in Tikrit, Iraq, for about 2 ½ months or until May, 2005, when he returned to the United States on vacation leave. (Tr. 15, 16, 43; EX-12, pp. 26, 27). When his vacation leave was over Claimant never returned to work, instead informing Employer he would be taking additional time off to see a doctor.

Before seeking employment with Employer, Claimant worked in Houston, Texas as a waiter and bartender at the Wyndam and St. Regis Hotels. (EX-7, p. 5; EX-12, p. 11). Claimant's W-2's for 2004 show Claimant with the following income: $12,111.63 (Benchmark Hospitality), $4,319.75 (Sunstone Hotel Properties Inc.), $2,347.77 (Houstonian Campus LTD), $1,842.61 (Aramark Food), $481.85 (WHC Payroll Company), $313.20 (Sam Houston Hotel), $197.00 (Courtyard on St. James), and $38.63 (Crestline Hotels) (CX-10). Claimant has a 12th grade education with courses in English at a community college in Florida. (Tr. 17).

Claimant testified that on February 20, 2005, at about 10:30 a.m., while manually unloading supplies he slipped while carrying a battery box and injured his knees and back. (Tr. 20, EX-7, pp. 10, 11; EX-12, pp. 12-20). Claimant began to experience immediate pain in his back and knees. The same day at 8 p.m. Claimant's supervisor, Michael Parsons, drove Claimant to a nurse's station where he got pain pills from a medic. (Tr. 21-23). According to Claimant the medic did not speak Spanish and as a result failed to document on his report the presence of left knee and back pain. (Tr. 24). Nonetheless, Claimant asserts that he wrote a note in English describing injuries to both knees and back and gave the note to the medic. (Tr. 25; EX-12, pp. 23, 24). The record contains no evidence of this note.

The medic prescribed rest, cold pack ace wrap, elevation and medicine. (Tr. 25, CX-1, p. 2). Claimant returned to work without delay and apparently had no recollection of continued pain except in the final days before his return trip to Houston. (EX-12, pp. 25, 26). Claimant sought no medical attention until returning to Houston, allegedly because of the absence of doctors in Iraq. (Tr. 26, 27). Claimant denied having any other accidents while in Iraq and also denied any back and knee injuries prior to his employment in Iraq. (Tr. 28, CX-11). Claimant testified he became unable to work only at the end of April or beginning of May, 2005, due to pain. (Tr. 46, 47).

On May 23, 2005 Employer sent Claimant for evaluation to Dr. Vandereweide who examined Claimant and prescribed medication which Claimant never took preferring to see his own doctor, Dr. Kushwaha. (Tr. 29, 30). In turn, Dr. Kushwaha, who has provided treatment for only back ailments, administered two injections and has kept Claimant off work from July 26, 2005 to August 26, 2005; and August 11, 2005 to November 11, 2005; and October 11, 2005 to December 11, 2005; and December 8, 2005 to February 8, 2006. (Tr. 31). Besides injections Dr. Kushwaha had Claimant undergo physical therapy on August 17, 19, 22, 24, 26; October 5, 7, 10, 12, 14, and 17, 2005. (CX-1, pp.8-15, 17, 15, 19).

C. Testimony and Medical Records of Drs. Vivek P. Kushwaha, David G. Vanderweide, and Mark Maffett

Dr. Kushwaha, an orthopedist, testified that he first saw Claimant on July 26, 2005, on a referral from Dr. Vanderweide for back pain which radiated into his left leg resulting in numbness and tingling made worse by sitting and standing. (CX-14, p. 6). Claimant described the February 20, 2005 injury. Dr. Kushwaba read and agreed with Dr. Vanderweide's report and findings. (Id. at 7). Dr. Kushwaba took Claimant off work because of Claimant's pain complaints. (Id. at 8). Dr. Kushwaba testified he has continued to treat Claimant for what he described as a L4-5 disc herniation with stenosis as shown on Claimant's lumbar MRI. (Id. at 9). The lumbar MRI showed mild intervertebral disc degeneration and bulging at L4-5 with moderate broad left lateral protrusion at L4-5. (CX-14, p. 41).

Dr. Kushwaba disagreed with Dr. Maffet's diagnosis of lumbar stain contending Dr. Maffet was not a spine specialist, but rather, a sports medicine specialist. (Id. at 10). Dr. Kushwaba testified Claimant was not at MMI, and had radiculopathy with displacement of the left L-4 nerve root. (Id. at 11). On cross Dr. Kushwaba admitted that Dr. Maffet was an orthopedist and that he did not know if Dr. Maffet had done back surgeries. (Id. at 12). Dr. Kushwaba admitted that it would be typical for a Claimant to go one week to 3 months without knowing his back was hurt. (Id. at 14). Dr. Kushwaba admitted never discussing any knee problems with Claimant. (Id. at 15).

Dr. Vanderweide, an orthopedist, examined Claimant on May 23, 2005 at Employer's request. Claimant complained of right and left knee and back pain with prolonged standing or walking. (EX-11, p. 8). On examination Claimant had a full range of back, knee and ankle motion with no evidence of neurological deficits, instability, tenderness to palpation, decreased sensation, x-rays of the knees, lumbar spine, and ankles were normal. (Id. at 10-14). At most Claimant had a mild crepitation in both knees. (Id. at 16).

Dr. Vanderweide was unable to explain either the magnitude or perpetuation of symptoms and opined that at most Claimant sustained a soft tissue injury consistent with a sprain to the right knee with no evidence of any ongoing structural injury for which he prescribed Lodine, an anti-inflammatory. (Id. at 17,

18; EX-8; CX-1, pp. 3-5). As of May 23, 2005, Dr. Vanderweide found Claimant able to return to work without restrictions. (CX-1, pp. 6, 7; EX-11, p. 17).

Dr. Maffet, an orthopedic surgeon, testified that he saw Claimant on September 20, 2005, during which he took a history of Claimant's accident followed by a physical examination. On examination Claimant complained of diffuse right and left knee pain while exhibiting signs of symptom magnification. (EX-15, pp. 11, 12). Despite pain complaints, Claimant had a full range of knee and back motion, and no evidence of neurological deficits. (Id. at 14, 17, 19). A review of a lumbar MRI showed some degenerative changes at L-5 (disc desiccation). There was no evidence of low back injuries. (Id. at 18). Dr. Maffet testified that Claimant's February 20, 2005 medical note was devoid of left knee complaints, and further, that Claimant's right knee symptoms should have been present from the date of injury and supported by objective underlying pathology which was not present. (Id. at 20, 21, 24). Dr. Maffet opined that Claimant was never temporarily disabled and assuming Claimant injured his right knee on February 20, 2005 it was no more than a contusion which should have resolved within 3 to 6 weeks. Further, the lack of symptoms from February 20, 2005 to May, 2005, was inconsistent with type of reported injury. (Id. at 27, 28).

Dr. Maffet testified that there was no objective evidence and essentially no reason Claimant could not return to work. (Id. 29). Dr. Maffet disagreed with Dr. Kushwaha's assessment of temporary disability from February 20, 2005 to December, 2005. (Tr. 30, 31). On cross, Dr. Maffet testified that trauma could cause acute herniation but not a degenerative disc bulge which Claimant had. (Id. 34). Further, Dr. Maffet opined that: (1) as of September 20, 2005 Claimant was at maximum medical improvement; (2) at most Claimant was disabled temporarily for a period of 3 to 6 weeks following the injury; (3) there was no evidence of aggravation of a pre-existing condition; (4) Claimant did not need surgery; and (5) the objective findings did not support subjective complaints. (EX-10).

IV. DISCUSSION

A. Contention of the Parties

Claimant contends he is entitled to temporary total disability benefits from the day he ceased working (May 15, 2005) to present and continuing at a weekly compensation rate of $1,047.16 based on Claimant's average weekly, contract wage rate pursuant to Section 10 © of the Act. Claimant's contract rate of pay

between January 29, 2005, and February 25, 2005, ($6,295.25 divided by 28 days or 4 weeks) or $1,573.81 resulting in a maximum compensation rate of $1,047.16. Claimant also contends he is entitled to reasonable and necessary medical care for his back and knees at the direction of Dr. Kushwaha, plus interest on unpaid benefits and attorney fees and expenses.

Employer on the other hand argues that Claimant did not establish a *prima facie* case of injury to his back or left knee because he continued working his full time usual and customary job for three months after the February 20, 2005 injury without complaint and without seeking follow up treatment despite instructions from the medic to return if pain persisted. (CX-1, p. 2; Tr. 26). Claimant was familiar with medic treatment having made three visits to the clinic between December, 2004, and February, 2005. (Tr. 36, 37: EX 7, p. 20). Further, when examined by Dr. Vanderweide on May 23, 2005, Claimant had no objective findings of injury and was diagnosed with a resolved, right knee sprain and advised to return to work. Subsequent examination by Dr. Maffet again revealed no objective findings and even Dr. Kushwaha who found Claimant disabled due to lumbar pain agreed with Dr. Vanderweide's findings and admitted that significant pain from a herniated disc was usually apparent within a week of injury and not three months as reported by Claimant. Indeed, Dr. Maffet found Claimant to have engaged in symptom magnification with inconsistent symptom reporting waiting almost 3 months after injury to complain of significant pain. Further, there is no evidence of any temporary disability to the right knee, which is the only substantiated injury. Thus, Claimant is not entitled to additional treatment beyond the medical treatment he received in Iraq and Dr, Vanderweide. However, assuming Claimant is entitled to temporary total disability benefits, Claimant's average weekly wage should be based on Section 10 © and reflect his earning over the course of the 52 weeks prior to injury amounting to $517.98.

B. Credibility of Parties

It is well-settled that in arriving at a decision in this matter the finder of fact is entitled to determine the credibility of the witnesses, to weigh the evidence and draw his own inferences from it, and is not bound to accept the opinion or theory of any particular medical examiner. *Banks v. Chicago Grain Trimmers Association, Inc.*, 390 U.S. 459, 467 (1968); *Louisiana Insurance Guaranty Ass'n v. Bunol*, 211 F.3d 294, 297 (5th Cir. 2000); *Hall v. Consolidated Employment Systems, Inc.*, 139 F.3d 1025, 1032 (5th Cir. 1998); *Atlantic Marine, Inc., v. Bruce*, 551 F.2d 898, 900 (5th Cir. 1981); *Arnold v. Nabors Offshore Drilling, Inc.*, 35 BRBS 9, 14 (2001). Any credibility determination must be rational, in accordance

with the law and supported by substantial evidence based on the record as a whole. *Banks*, 390 U.S. at 467; *Mijangos v. Avondale Shipyards, Inc.*, 948 F.2d 941, 945 (5th Cir. 1991); *Huff v. Mike Fink Restaurant, Benson's Inc.*, 33 BRBS 179, 183 (1999).

In the present case, I was not impressed with Claimant's testimony which I find evasive especially with regard to his February 20, 2005 injury and subsequent symptoms. Claimant asserts he hurt both knees and back yet the medic report reflects only a right knee strain even though he alleged wrote a note indicating injury to both knees and back. Claimant's failure to report any significant symptoms or seek additional medical treatment until he returned to the U.S., almost 3 months later, while performing his normal fork lifting duties further undermines his credibility as does Dr. Vanderweide's May 23, 2005 evaluation showing no evidence of any ongoing structural injury with Claimant's able to return to work. This assessment was confirmed by Dr. Maffet. Indeed, the only medical support for Claimant comes from Dr. Kushwaha who interpreted Claimant's MRI as showing disc herniation due to trauma yet agreed with Dr. Vanderweide's findings and failed to consider the medic's report or explain the lack of symptoms for almost 3 months. In essence, I credit Dr. Vanderweide's and Dr. Maffet's testimony that at most Claimant sustained a temporary injury to the right knee which resolved leaving no residuals and did not prevent Claimant from doing his routine work.

C. Causation

In establishing a causal connection between the injury and claimant's work, the Act should be liberally applied in favor of the injured worker in accordance with its remedial purpose. *Staffex Staffing v. Director, OWCP*, 237 F.3d 404, 406 (5th Cir. 2000), *on reh'g*, 237 F.3d 409 (5th Cir. 2000); *Morehead Marine Services, Inc., v. Washnock*, 135 F.3d 366, 371 (6th Cir. 1998)(*quoting Brown v. ITT/Continental Baking Co.*, 921 F.2d 289, 295 (D.C. Cir. 1990)); *Wright v. Connolly-Pacific Co.*, 25 BRBS 161, 168 (1991). Ordinarily the claimant bears the burden of proof as a proponent of a rule or order. 5 U.S.C. § 556(d)(2002). By express statute, however, the Act presumes a claim comes within the provisions of the Act in the absence of substantial evidence to the contrary. 33 U.S.C. § 920(a)(2003). Should the employer carry its burden of production and present substantial evidence to the contrary, the claimant maintains the ultimate burden of persuasion by a preponderance of the evidence under the Administrative Procedures Act. 5 U.S.C. 556(d)(2002); *Director, OWCP, v. Greenwich*

Collieries, 512 U.S. 267, 281(1994); *American Grain Trimmers, Inc., v. Director, OWCP*, 181 F.3d 810, 816-17 (7th Cir. 1999).

Section 2(2) of the Act defines injury as a accidental injury or death arising out of or in the course of employment. 33 U.S.C. § 902(2)(2003). Section 20(a) of the Act provides a presumption that aids the claimant in establishing that a harm constitutes a compensable injury under the Act:

Section 20 provides that: [I]n any proceeding for the enforcement of a claim for compensation under this Act it shall be presumed, in the absence of substantial evidence to the contrary - - (a) that the claim comes within the provisions of this Act." 33 U.S.C. § 920(a). To establish a prima facie claim for compensation, a claimant need not affirmatively establish a connection between work and harm. Rather, a claimant has the burden of establishing only that: (1) the claimant sustained a physical harm or pain; and (2) an accident occurred in the course of employment, or conditions existed at work, which could have caused, aggravated, or accelerated the harm or pain. *Port Cooper/T. Smith Stevedoring Co., Inc., v. Hunter*, 227 F.3d 285, 287 (5th Cir. 2000); *O'Kelly v. Department of the Army*, 34 BRBS 39, 40 (2000); *Kier v. Bethlehem Steel Corp.*, 16 BRBS 128, 129 (1984).

To show harm or injury a claimant must show that something has gone wrong with the human frame. *Crawford v. Director, OWCP*, 932 F.2d 152, 154 (2nd Cir. 1991); *Wheatley v. Adler*, 407 F.2d 307, 311-12 (D.C.Cir. 1968); *Southern Stevedoring Corp., v. Henderson*, 175 F.2d. 863, 866 (5th Cir. 1949). An injury cannot be found absent some work-related accident, exposure, event or episode. *Adkins v. Safeway Stores, Inc.*, 6 BRBS 513, 517 (1978). Under the aggravation rule, an entire disability is compensable if a work related injury aggravates, accelerates, or combines with a prior condition. *Gooden v. Director, OWCP*, 135 F.3d 1066, 1069 (5th Cir. 1998)(pre-existing heart disease); *Kubin v. Pro-Football, Inc.*, 29 BRBS 117, 119 (1995)(pre-existing back injuries).

Although a claimant is not required to introduce affirmative medical evidence establishing that working conditions caused the harm, a claimant must show the existence of working conditions that could conceivably cause the harm alleged beyond a mere fancy or wisp of what might have been. *Wheatley*, 407 F.2d at 313. A claimant's uncontradicted credible testimony alone may constitute sufficient proof of physical injury. *Hampton v. Bethlehem Steel Corp.*, 24 BRBS 141, 144 (1990)(finding a causal link despite the lack of medical evidence based on the claimant's reports); *Golden v. Eller & Co.*, 8 BRBS 846, 849 (1978), *aff'd*, 620 F.2d 71 (5th Cir. 1980)(same). On the other hand, uncorroborated testimony

by a discredited witness is insufficient to establish the second element of a *prima facie* case that the injury occurred in the course and scope of employment, or conditions existed at work which could have caused the harm. *Bonin v. Thames Valley Steel Corp.*, 173 F.3d 843(2nd Cir. 1999) (unpub.)(upholding ALJ ruling that the claimant did not produce credible evidence a condition existed at work which could have cause his depression); *Alley v. Julius Garfinckel & Co.*, 3 BRBS 212, 214-15(1976)(finding the claimant's uncorroborated testimony on causation not worthy of belief); *Smith v. Cooper Stevedoring Co.*, 17 BRBS 721, 727 (1985)(ALJ)(finding the claimant failed to meet the second prong of establishing a *prima facie* case because the claimant's uncorroborated testimony linking the harm to his work was not supported by the record).

Once this prima facie case is established, a presumption is created under Section 20(a) that the employee's injury or death arose out of employment. *Hunter*, 227 F.3d at 287. [T]he mere existence of a physical impairment is plainly insufficient to shift the burden of proof to the employer. *U.S. Industries/Federal Sheet Metal Inc., v. Director, OWCP*, 455 U.S. 608 (1982). *See also Bludworth Shipyard Inc., v. Lira*, 700 F.2d 1046, 1049 (5th Cir. 1983) (stating that a claimant must allege an injury arising out of and in the course and scope of employment); *Devine v. Atlantic Container Lines*, 25 BRBS 15, 19 (1990) (finding the mere existence of an injury is insufficient to shift the burden of proof to the employer).

"Once the presumption in Section 20(a) is invoked, the burden shifts to the employer to rebut it through facts - not mere speculation - that the harm was not work-related. *Conoco, Inc., v. Director, OWCP*, 194 F.3d 684, 687-88 (5th Cir. 1999). Thus, once the presumption applies, the relevant inquiry is whether the employer has succeeded in establishing the lack of a causal nexus. *Gooden v. Director, OWCP*, 135 F.3d 1066, 1068 (5th Cir. 1998); *Bridier v. Alabama Dry Dock & Shipbuilding Corp.*, 29 BRBS 84, 89-90 (1995)(failing to rebut presumption through medical evidence that claimant suffered an prior, unquantifiable hearing loss); *Hampton v. Bethlehem Steel Corp.*, 24 BRBS 141, 144-45 (1990) (finding testimony of a discredited doctor insufficient to rebut the presumption); *Dower v. General Dynamics Corp*., 14 BRBS 324, 326-28(1981)(finding a physician's opinion based of a misreading of a medical table insufficient to rebut the presumption). The Fifth Circuit further elaborated:

> To rebut this presumption of causation, the employer was required to present substantial evidence that the injury was not caused by the employment. When an employer offers sufficient evidence to rebut the presumption--the kind of evidence a reasonable mind might accept

> as adequate to support a conclusion-- only then is the presumption overcome; once the presumption is rebutted it no longer affects the outcome of the case.

Noble Drilling v. Drake, 795 F.2d 478, 481 (5th Cir. 1986)(emphasis in original). *See also, Ortco Contractors, Inc., v. Charpentier,* 332 F.3d 283, 290 (5th Cir. 2003) *cert. denied* 124 S. Ct. 825 (Dec. 1, 2003)(stating that the requirement is less demanding than the preponderance of the evidence standard); *Conoco, Inc.*, 194 F.3d at 690 (stating that the hurdle is far lower than a "ruling out" standard); *Stevens v. Todd Pacific Shipyards Corp.*, 14 BRBS 626, 628 (1982), aff'd mem., 722 F.2d 747 (9th Cir. 1983) (stating that the employer need only introduce medical testimony or other evidence controverting the existence of a causal relationship and need not necessarily prove another agency of causation to rebut the presumption of Section 20(a) of the Act); *Holmes v. Universal Maritime Serv., Corp.*, 29 BRBS 18, 20 (1995)(stating that the unequivocal testimony of a physician that no relationship exists between the injury and claimant's employment is sufficient to rebut the presumption.

If the presumption is rebutted, it no longer controls and the record as a whole must be evaluated to determine the issue of causation. *Del Vecchio v. Bowers*, 296 U.S. 280, 286-87 (1935); *Port Cooper/T Smith Stevedoring Co., v. Hunter*, 227 F.3d 285, 288 (5th Cir. 2000); *Holmes v. Universal Maritime Serv. Corp*., 29 BRBS 18, 20 (1995). In such cases, I must weigh all of the evidence relevant to the causation issue. If the record evidence is evenly balanced, then the employer must prevail. *Director, OWCP, v. Greenwich Collieries*, 512 U.S. 267, 281 (1994).

In this case it is clear that Claimant established a *prima facie* case of disability for a right knee injury. However, Claimant did not present credible evidence to establish either left knee or back injuries. The credible evidence only indicates a right knee sprain which did not cause significant pain or interfere in Claimant's ability to work. The objective medical evidence shows no abnormalities or continuing residuals related to the February 20, 2005 injury. Assuming arguendo that Claimant established a *prima facie* case for left knee and back impairments Employer rebutted that case through the medics' report of February as well as subsequent reports of Drs. Vanderweide and Maffat.

In weighing the evidence as a whole, I find that the preponderance of credible testimony weighs in favor of a finding of a minor right knee sprain which resolved within a 3 week period following injury and did not interfere with Claimant's ability to work; insofar as Claimant received appropriate medical

treatment from Employer for his right knee injury which subsequently resolved. I find Employer is not responsible for compensation or additional medical benefits and deny the instant claim.

V. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law and upon the entire record, I enter the following Order:

The instant claim for compensation and additional medical benefits is without merit and hereby is denied.

A

CLEMENT J. KENNINGTON
Administrative Law Judge